

AMENDED IN SENATE APRIL 28, 2009

AMENDED IN SENATE APRIL 15, 2009

SENATE BILL

No. 601

**Introduced by Senator Padilla
(Principal coauthor: Senator Oropeza)
(Coauthors: Senators DeSaulnier and Romero)**

February 27, 2009

An act to add Section 22973.4 to the Business and Professions Code, relating to cigarette and tobacco products.

LEGISLATIVE COUNSEL'S DIGEST

SB 601, as amended, Padilla. Retail tobacco licenses.

The California Cigarette and Tobacco Products Licensing Act of 2003 requires a retailer to obtain a license from the State Board of Equalization to engage in the sale of cigarette and tobacco products in this state. A retailer owning more than one retail location must obtain a separate license for each retail location.

This bill would specify that a new license may not be issued to a retailer for a retail location that is located within ~~1,000~~ 600 feet of a school, except as specified, and would limit the issuance of licenses to retailers for a traditional retail location, as defined.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 22973.4 is added to the Business and
- 2 Professions Code, to read:

1 22973.4. (a) The board shall not issue a new retail license to
2 a retailer for a retail location that is located within ~~1,000~~ 600 feet
3 of a public or private elementary or secondary school.

4 (b) The board shall issue a *new* retail license to a retailer only
5 for a retail location that is a traditional retail location. For purposes
6 of this section, “traditional retail location” includes, but is not
7 limited to, a grocery store, convenience store, pharmacy, liquor
8 store, gas station, smoke shop, wine and cigar store, superstore,
9 or a tobacco or cigar store. The board may adopt regulations that
10 specify other locations that would constitute a traditional retail
11 location.

12 (c) ~~This~~ *For purposes of a traditional retail location and*
13 ~~notwithstanding subdivision (c) of Section 22972, this section shall~~
14 not apply to the renewal or transfer of a retail license.

15 (d) (1) Notwithstanding subdivision (a), the State Board of
16 Equalization may issue a new retail license to a retailer for a retail
17 location that is located within 1,000 feet of a public or private
18 elementary school if the local governing body of the area in which
19 the applicant’s premises are located, or its designated subordinate
20 officer or body, determines within 90 days of notification of a
21 completed application that public convenience or necessity would
22 be served by the issuance. The 90-day period shall commence
23 upon receipt by the local governing body of either of the following:

24 (A) Notification by the State Board of Equalization of an
25 application for licensure.

26 (B) A completed application according to local requirements,
27 if any, whichever is later.

28 (2) If the local governing body, or its designated subordinate
29 officer or body, does not make a determination within the 90-day
30 period, then the State Board of Equalization may issue a license
31 under paragraph (1) if the applicant shows the State Board of
32 Equalization that public convenience or necessity would be served
33 by the issuance. In making its determination, the State Board of
34 Equalization shall not attribute any weight to the failure of the
35 local governing body, or its designated subordinate officer or body,
36 to make a determination regarding public convenience or necessity
37 within the 90-day period.

38 (e) This section shall not preempt a local jurisdiction from
39 adopting an ordinance that is more restrictive than this section with
40 regard to ~~retailers:~~ *retailers or proximity to a school.*

1 (f) *For purposes of this act, the State Board of Equalization,*
2 *the State Department of Public Health, and the Department of*
3 *Alcoholic Beverage Control shall share all information in regards*
4 *to retailers as necessary to implement this act.*

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